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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/644,514

08/20/2003

Andrew Loch

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05/02/2008

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NEWPORT BEACH, CA 92660

EXAMINER

COBANOGLU, DILEK B

ART UNIT

PAPER NUMBER

3626

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/644,514	<b>Applicant(s)</b> LOCH ET AL.	
	<b>Examiner</b> DILEK B. COBANOGLU	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-38 and 100-113 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-38 and 100-113 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/20/2003</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the election for the restriction received on 1/28/2008. Applicant has been elected Group I, claims 25-38, 100-113, which recite a method and a system of communication of patient data with standardized protocols. Claims 25-38 and 100-113 remain pending in this application.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 25-27, 29-32, 34, 37, 38, 100-102, 104-107, 109, 112, 113 are rejected under 35 U.S.C. 102(e) as being unpatentable by Peifer et al. (hereinafter Peifer) (U.S. Patent No. 5,987,519).

A. As per claim 25, Peifer discloses a method of communication of patient data, said method including the steps of:

- i. acquiring said data from a patient at a patient location by means of a patient data acquisition apparatus (Peifer; abstract, col. 3, lines 36-59);

- ii. transmitting said data by means of a transmission apparatus to a patient data server at an analysis location via a interconnectable network of computers (Peifer; abstract, col. 3, lines 36-59);
- iii. storing said data within said data server (Peifer; col. 3, lines 36-59);
- and
- iv. retrieving said data from data server by use of queries generated by a patient data storage and analysis apparatus wherein retrieved data travels via at least a portion of the same said interconnectable network of computers (Peifer; col. 3, lines 36-59, col. 4, lines 24-33).

B. As per claim 26, Peifer discloses wherein said interconnectable network of computers is adapted for interconnection using standardized protocols and wherein individual computers are adapted to store and forward packets of digital information and whereby the packets of information are thereby able to be passed from computer to computer until they reach a destination computer whose address is included as part of the packet and wherein said data is transmitted as said packets of information (Peifer; abstract, col. 3, lines 36-59, col. 4, lines 24-33).

C. As per claim 27, Peifer discloses the method of claim 26, wherein said interconnectable network of computers includes the Internet (Peifer; col. 3, lines 36-59, figure 1).

- D. As per claim 29, Peifer discloses the method of claim 25, wherein said patient data is at least partially encrypted for transmission (Peifer; col. 3, lines 36-59).
- E. As per claim 30, Peifer discloses the method of claim 25, wherein said patient data is at least partially compressed for transmission (Peifer; col. 3, lines 36-59).
- F. As per claim 31, Peifer discloses the method of claim 25, wherein said patient data is acquired in real time (Peifer; col. 3, lines 36-59).
- G. As per claim 32, Peifer discloses the method of claim 25, wherein said patient data is patient physiological data (Peifer; col. 6, lines 37-56).
- H. As per claim 34, Peifer discloses the method of claim 25, wherein said transmission apparatus includes supplementary data insertion means for inserting supplemental data into said patient data (Peifer; col. 6, line 57 to col. 7, line 17).
- I. As per claim 37, Peifer discloses the method of claim 25, wherein said patient data storage and analysis apparatus includes at least one personal computer (Peifer; col. 5, lines 29-48, col. 6, lines 37-56).
- J. As per claim 38, Peifer discloses the method of claim 34, wherein said supplemental data comprises at least one of patient data or patient data apparatus identification data (Peifer; col. 6, line 57 to col. 7, line 17).
- K. As per claims 100-102, 104-107, 109, 112, 113 they are system claims which repeat the same limitations of claims 25, 27, 29-32, 34, 37, 38 the

corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of Peifer disclose the underlying process steps that constitute the methods of claims 25, 27, 29-32, 34, 37, 38 it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 100-102, 104-107, 109, 112, 113 are rejected for the same reasons given above for claims 25, 27, 29-32, 34, 37, 38.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 28 and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peifer et al. (hereinafter Peifer) (U.S. Patent No. 5,987,519) in view of Official Notice.

A. As per claim 28, Peifer discloses the method of claim 25.

Peifer does not explicitly disclose patient data server includes an SQL database.

However, the Examiner takes official notice that it was well known in the computer language arts to use SQL databases. The motivation would have been to retrieve and manage data in

relational database management systems, database schema creation and modification and database object access control management.

B. As per claim 103, it is a system claim which repeats the same limitations of claim 28, the corresponding method claim, as a collection of elements as opposed to a series of process steps. Since the teachings of Peifer and Official Notice disclose the underlying process steps that constitute the methods of claim 28, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claim 103 are rejected for the same reasons given above for claims 28.

6. Claims 33 and 108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peifer et al. (hereinafter Peifer) (U.S. Patent No. 5,987,519) in view of Raymond et al. (hereinafter Raymond) (U.S. Patent No. 6,282,441 B1).

A. As per claim 33, Peifer discloses the method of claim 25.

Peifer fails to expressly teach the patient data comprises a plurality of separate waveforms acquired consecutively over a period of days or weeks. However, this feature is well known in the art, as evidenced by Raymond.

In particular, Raymond discloses the patient data comprises a plurality of separate waveforms acquired consecutively over a period of days or weeks (Raymond; col. 1, lines 52-67, col. 15, lines 5-17, lines 54-67, figure

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Raymond with the motivation of tracking and assessing general health over days (Raymond; col. 1, lines 52-67).

B. As per claim 108, it is a system claim which repeats the same limitations of claim 33, the corresponding method claim, as a collection of elements as opposed to a series of process steps. Since the teachings of Peifer and Raymond disclose the underlying process steps that constitute the methods of claim 33, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claim 108 are rejected for the same reasons given above for claims 33.

7. Claims 35-36 and 110-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peifer et al. (hereinafter Peifer) (U.S. Patent No. 5,987,519) in view of Snell (U.S. Patent No. 5,722,999).

A. As per claims 35-36, Peifer discloses the method of claim 25.

Peifer fails to expressly teach a unique identifier is given to each said data acquisition apparatus and to said data, a unique identifier is added to said data. However, this feature is well known in the art, as evidenced by Snell.

In particular, Snell discloses a unique identifier is given to each said data acquisition apparatus and to said data, a unique identifier is added to said data (Snell; col. 4, lines 21-34, col. 7, lines 38-49).



It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Snell with the motivation of identifying the medical device (Snell; col. 7, lines 38-49).

B. As per claims 110-111, they are system claims which repeat the same limitations of claims 35-36, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of Peifer and Snell disclose the underlying process steps that constitute the methods of claims 35-36, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claim 110-111 are rejected for the same reasons given above for claims 35-36.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not used prior art teach Satellite communications system for medical related images 4945410 A, Ambulatory patient health monitoring techniques utilizing interactive visual communication 5441047 A, Method and apparatus for alerting patients and medical personnel of emergency medical situations 5416695 A, Ambulatory patient health monitoring techniques utilizing interactive visual communication 5544649 A, Intelligent remote visual monitoring system for home health care service 5553609 A, System for monitoring and reporting medical measurements 5626144 A, Medical system for at-home patients 5785650 A, Concurrent medical patient data and voice communication method and apparatus 5941829 A.

Art Unit: 3626

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DILEK B. COBANOGLU whose telephone number is (571)272-8295. The examiner can normally be reached on 8-4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. B. C./  
Examiner, Art Unit 3626  
4/28/2008

/Robert Morgan/  
Primary Examiner, Art Unit 3626